

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA	*	CASE NO. 1:19CR00175
Plaintiff	*	
-vs-	*	JUDGE JOHN R. ADAMS
BRANDON ALEX BUTLER	*	<u>DEFENDANT’S SENTENCING</u>
Defendant	*	<u>MEMORANDUM</u>
	*	*
	*	*

Now comes the Defendant, Brandon Alex Butler, by and through undersigned counsel, and who asks the Court to consider the following Memorandum at the time of his sentencing.

Respectfully submitted,

/S/ LAWRENCE J. WHITNEY

LAWRENCE J. WHITNEY #0023738
LAWRENCE J. WHITNEY CO., L.P.A.
Attorney for Defendant
137 South Main Street, Suite 201
Akron, Ohio 44308
330-253-7171
330-253-7174 fax
burdon-merlitti@neo.rr.com

MEMORANDUM

PRESENTENCE REPORT

The Presentence correctly sets forth that pursuant to 21 U.S.C. 846, 841(a)(1) and (b)(1)(A), the minimum term of imprisonment is 10 years. The guideline was also correctly calculated at total offense level 31, Criminal History Category I, 108 – 135 months. The Defendant thus has a guideline sentence of 110 – 135 months.

The Defendant plead to the indictment without an agreement.

3553 FACTORS

As stated, Defendant has a countable criminal history of 1 point for a misdemeanor drug offense in 2017. He has misdemeanor convictions when he was 18 to 24 and three more from age 21 – 29. At 28, he had an F5 drug conviction that is not countable. He then was conviction free for 11 years when he received the countable misdemeanor in 2017.

Defendant comes from a large family. He has one brother who has a drug conviction and has four siblings that do not have any criminal history. His family was close knit; however, his parents had an abusive relationship. He has four children with two women. He is close to his children and his girlfriend's two children.

The Defendant suffers from congestive heart failure, hypertension and diabetes. He has had two surgeries.

Defendant has been diagnosed with a bipolar disorder.

Defendant also has alcohol and marijuana abuse problems. He has been giving drug screens which were negative. He has been on house arrest since his arrest in this case and has been compliant. Defendant has a full-time job at DHL as a forklift operator. He has a good report from his employer "He is doing a great job here for us." (R. #45, PSR, PageID #145).

Counsel asks that this Court consider the 120-month sentence, which satisfies the 10-year mandatory minimum. Defendant has fully accepted responsibility for the crime and an examination of the 3553 factors indicates that a 120-month sentence would adequately protect the public and punish Defendant and would be a just sentence. Defendant would also ask that he

participate in a drug program while incarcerated and asks the Court to further recommend that he serve his time at the closest institution to Akron, Ohio so that his family may visit him.

/S/ LAWRENCE J. WHITNEY

LAWRENCE J. WHITNEY

Attorney for Defendant

PROOF OF SERVICE

I hereby certify that on October 10, 2019, a copy of the foregoing Defendant's Sentencing Memorandum was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/S/ LAWRENCE J. WHITNEY

LAWRENCE J. WHITNEY

Attorney for Defendant